



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

July 22, 1991

Ms. Jo Ann S. Wright
Chappell & Handy
Attorneys at Law
1800 City Center Tower II
301 Commerce Street
Fort Worth, Texas 76102-4118

OR91-335

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12662.

The Fort Worth Independent School District (the district) received an open records request for, *inter alia*, a copy of "the report of activities . . . regarding problems at Washington Heights Elementary School." You contend the report comes under the protection of section 3(a)(11) of the Open Records Act.

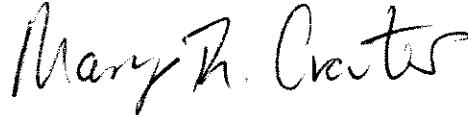
Section 3(a)(11) of the act excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain sensitive advice, opinion, or recommendation intended for use in the entity's deliberative process. Open Records Decision No. 538 (1990). The purpose of this section is "to protect from public disclosure advice and opinions on policy matters and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.).

Section 3(a)(11) does not protect facts and written observation of facts and events that are severable from advice, opinion, and recommendation. Open Records Decision No. 450 (1986). In this instance, however, the factual information contained in the report is inextricably intertwined with the information protected by section 3(a)(11); the district may therefore withhold the report in its entirety. See Open Records Decision No. 313 (1982).

Because case law and prior published open records decisions resolve your

request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-335.

Yours very truly,

A handwritten signature in cursive script that reads "Mary R. Crouter".

Mary R. Crouter
Assistant Attorney General
Opinion Committee

MRC/RWP/lb

Ref.: ID# 12662
ID# 12831
ID# 12942

cc: Gregory Hannaford
UniServ Representative
Fort Worth Classroom Teachers Association
6021 Westcreek Drive
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